

**REMARKS/ARGUMENTS**

Applicant would like to thank the Examiner for the careful consideration given the present application. Reconsideration of the subject patent application in view of the present remarks is respectfully requested.

Claims 1, 2 and 20 are amended. Support for the amended claim 1 is found in paragraph [0032] of the specification.

Claims 4, 7, 12, 13 and 25 are withdrawn.

*Priority*

Applicants have notified WIPO of the improper scanning of the DK priority document and asked them to correct the error as soon as possible. A proper copy of the certified priority document will be accessible in the near future.

*Claim Rejections - 35 USC § 103*

Claims 1-3, 5, 6, 8-11, 14-24, 26, and 27 are rejected under 35 U.S.C. 103(a) as being unpatentable over Glejbol in view of Greco. Applicants respectfully request withdrawal of the rejection for at least the following reasons.

Regarding the amended claim 1, neither Glejbol nor Greco, alone or in combination, discloses, teaches or renders foreseeable said at least wound two layers being locally held together.

Glejbol does not disclose the above feature of the amended claim 1, as admitted by the examiner in the Office action. There is no disclosure in Glejbol that the helically wound layers are locally held together which is required in the present invention.

The Office action states that Greco discloses that polyethylene fibers can be wound in to allow for a second strand of different material which upon heating is soften and inherently would lead to the fibers of the crossing layers to locally be held together.

However, Greco is a non-analogous art, since Greco relates to a **bonded hose** commonly used for gardening, etc., while the present invention relates to an **unbonded flexible pipe** for transporting a fluid in a marine environment where the armouring layer is not chemically bonded to the inner liner or to possible intermediate layers or membranes but is able to move relative to the inner liner or the possible intermediate layers or membranes. According to MPEP §2141.01(a), to rely on a reference under 35 U.S.C. 103, it must be analogous prior art. Here, the typical operating conditions (internal and external pressure, chemical influence of the transported fluid, temperature, etc.) for the hoses of Greco are vastly different from the operating conditions of the flexible pipes of the present invention. Unlike the hoses of Greco, the unbonded flexible pipe of the present invention should be able to transport aggressive fluids, to withstand high pressures, temperatures and variations thereof during use, to have a high flexibility, and furthermore such pipe should have a long lifetime which in offshore guidelines normally is specified to 20 years or longer. Therefore, Greco relates to a significantly different technical field from the present invention and is thus not applicable as prior art over the present invention.

Also, the limitation, “said at least two layers being locally held together” is not inherent from Greco. According to MPEP §2112, the fact that a certain result or characteristic may occur

or be present in the prior art is not sufficient to establish the inherency of that result or characteristic. *In re Rijckaert*, 9 F.3d 1531, 1534, 28 USPQ2d 1955, 1957 (Fed. Cir. 1993). Inherency may not be established by probabilities or possibilities. The mere fact that a certain thing may result from a given set of circumstances is not sufficient. *In re Robertson*, 169 F.3d 743, 745, 49 USPQ2d 1949, 1950-51 (Fed. Cir. 1999). In relying upon the theory of inherency, the examiner must provide a basis in fact and/or technical reasoning to reasonably support the determination that the allegedly inherent characteristic necessarily flows from the teachings of the applied prior art. *Ex parte Levy*, 17 USPQ2d 1461, 1464 (Bd. Pat. App. & Inter. 1990). Here, the fact that the yarns upon heating is softened which is considered melting is not sufficient to establish the inherency of the claim 1 feature that said at least two wound layers are locally held together. Inherency may not be established by probabilities or possibilities that the yarns disclosed in Greco may locally be held together. The examiner fails to provide a basis in fact and/or technical reasoning to reasonably support the determination that the allegedly inherent characteristic of claim 1 necessarily flows from the teachings of Greco.

Accordingly, the combination of Glejbol and Greco does not meet all of the limitations of claim 1. Therefore, the asserted combination of Glejbol and Greco does not render claim 1 obvious. Thus, withdrawal of the rejection as it applies to claim 1 is respectfully requested.

Claims 2-3, 5, 6, 8-11, 14-24, 26, and 27 which are directly or indirectly dependent from claim 1 should be allowable for at least the same reason as claim 1.

In addition, regarding claim 2, neither Glejbol nor Greco, alone or in combination, discloses, teaches or renders foreseeable that said at least two protective layers have adjacent surfaces of contact comprising areas which are held together and areas which are un-tied to each

other. Glejbol does not disclose the above feature of claim 2, since Glejbol fails to disclose said at least two layers being locally held together, as admitted by the examiner in the Office action. There is no disclosure in Greco that said at least two protective layers have adjacent surfaces of contact comprising both the held areas and the un-tied areas.

Also, regarding claim 5, neither Glejbol nor Greco, alone or in combination, discloses, teaches or renders foreseeable that said at least two protective layers are held together by at least one discrete string of binding material located on said adjacent surfaces of contact, said string of binding material extending in a longitudinal direction of the flexible pipe and crossing the composite wires of said protective layers. Glejbol does not disclose the above feature of claim 5, since Glejbol fails to disclose said at least two layers being locally held together, as admitted by the examiner in the Office action. Greco is silent about the use of discrete string of binding material located on said adjacent surfaces of contact, extending in a longitudinal direction of the flexible pipe and crossing the composite wires of said protective layers.

In consideration of the foregoing analysis, it is respectfully submitted that the present application is in a condition for allowance and notice to that effect is hereby requested. If it is determined that the application is not in a condition for allowance, the examiner is invited to initiate a telephone interview with the undersigned attorney to expedite prosecution of the present application.

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If there are any additional fees resulting from this communication, please charge same to  
our Deposit Account No. 16-0820, our Order No. NKTR-46756.

Respectfully submitted,

PEARNE & GORDON LLP

By:   
Nobuhiko Sukenaga, Reg. No. 39446

1801 East 9th Street  
Suite 1200  
Cleveland, Ohio 44114-3108  
(216) 579-1700

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